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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ARMANI CRUZ,

Defendant and Appellant.

A148923

(City & County of San Francisco
Super. Ct. No. 224207)

Defendant Armani Cruz was convicted in adult criminal court of, among other things, an attempted murder (Pen. Code, §§ 664, 187) committed when he was 17 years of age. On July 15, 2016, Cruz was sentenced to an indeterminate term of seven years to life in prison. Cruz timely filed a notice of appeal. On November 8, 2016, while defendant's appeal was pending, California voters passed Proposition 57, the Public Safety and Rehabilitation Act of 2016, which as relevant here amended the Welfare and Institutions Code so as to eliminate direct filing by prosecutors in adult criminal court. Under the amendments, a 17-year-old minor can be tried in criminal court only after a transfer hearing in juvenile court at which the court finds the minor is not amenable to treatment as a juvenile after considering numerous factors including the minor's age, maturity, intellectual capacity, mental and emotional health, degree of criminal sophistication, prior delinquent history, ability to be rehabilitated, and the circumstances and gravity of the offense alleged. (Welf. & Inst. Code, § 707, subd. (a).)

Cruz correctly contends Proposition 57 applies retroactively to his case and requires a conditional reversal of the judgment and remand for a transfer hearing pursuant to section 707, subdivision (a). Under *People v. Superior Court (Lara)* (2018) 4 Cal.5th

299 and *People v. Vela* (2018) 21 Cal.App.5th 1099, 1102, a limited remand is required. The Attorney General's brief was filed before either of these cases was decided and he has not filed, or requested to file, a supplemental opposition addressing this authority.

Therefore, we will conditionally reverse the judgment and remand the matter to the juvenile court for a transfer hearing wherein the court will determine defendant's fitness for treatment within the juvenile justice system. If, after conducting the hearing, the juvenile court determines that defendant should be transferred to adult court, then his convictions and sentence should be reinstated. If the juvenile court determines that defendant is fit for juvenile court treatment, the juvenile court is ordered to treat defendant's convictions as juvenile adjudications and impose an appropriate juvenile disposition after a dispositional hearing. (*People v. Vela, supra*, 21 Cal.App.5th at p. 1113.)

There can be no contention in this case that the failure to hold a transfer hearing was harmless. (*People v. Vela, supra*, 21 Cal.App.5th at p. 1113 ["This court is not in a position to evaluate the various factors to be considered at a juvenile transfer hearing."].) Moreover, in denying Cruz's post-judgment motion to be sentenced as a juvenile offender, the trial court observed that it did so with a "heavy heart." The court explained that it then lacked discretion to grant the requested relief but that had it retained such discretion it probably would have reached a different conclusion.

Disposition

The judgment is reversed and the matter is remanded to the juvenile court for a transfer hearing under Welfare and Institutions Code section 707.

POLLAK, P. J.

WE CONCUR:

TUCHER, J.
BROWN, J.